IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 23RD AUGUST 2006 / 1ST BHADRA 1928

WP(C).No. 2464 of 2005(R)

PETITIONER:

NAVYA. J. KANICHAL, C/O. A.P. PAPPACHAN
ARICATT HOUSE, ALOOR P.O., THRISSUR DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN

RESPONDENTS:

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1. THE CORPORATE MANAGER,
PAVANATHAMA EDUCATIONAL AGENCY,
KALLETTUMKARA, THRISSUR DISTRICT.

2. THE DISTRICT EDUCATIONAL OFFICER,
IRINJALAKUDA.

3. THE DIRECTOR, HIGHER SECONDARY
EDUCATION, THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.BABU VARGHESE
R2 TO R4 BY SMT. D.P. RENU, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE R1 DATED 16.7.2001

EXT.P2-TRUE COPY OF LETTER DATED 27.12.2001 SENT BY R2 TO R1

EXT.P3-TRUE COPY OF LETTER DATED 21.1.2002 SENT BY THE PETITIONER TO R2

EXT.P4-TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE R3 ON 15.12.2003

EXT.P5-TRUE COPY OF DO. BEFORE R3 DATED 22.9.2004

RESPONDENTS' EXTS:

EXT.R1(A)-TRUE COPY OF APPOINTMENT ORDER DATED 15.6.2001

EXT.R1(B)-TRUE COPY OF APPOINTMENT ORDER DATED 15.6.2001

EXT.R1(C)-TRUE COPY OF APPOINTMENT ORDER DATED 15.6.2001

EXTR1(D)- DO DO.

EXT.R1(E)-DO DATED 4.2.97 ISSUED TO MARY A.K.

EXT.R1(F)-DO. DATED 21.1.97 ISSUED TO PREETHI M.O.

EXT.R1(G)-TRUE COPY OF APPOINTMENT/APPROVAL ORDER ISSUED TO SMT. MONICA JOSEPHINE HAROLD.

// TRUE COPY //

A. K. Basheer, J.

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W.P.(C)No.2464 Of 2005

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Dated this the 23rd day of August, 2006.

JUDGMENT

Is the petitioner entitled to get compassionate appointment under Rule 51-B of Chapter XIV-A of the Kerala Education Rules in the school under the management of respondent No.1?

2. A brief reference to the essential facts may be necessary to answer the above question.

3. Petitioner's mother Smt. Daisy Paul was a teacher in St. Donbosco Girls High School under the management of respondent No.1. Smt. Daisy died in harness on October 6, 2000. According to the petitioner, she had submitted Ext.P1 application for employment assistance on July 16, 2001. She sought appointment as Clerk. By Ext.P2 communication dated December 27, 2001, the District Educational Officer, Irinjalakkuda, respondent No.2, had directed the manager to give "appropriate appointment" to the petitioner in the school "in the arising vacancy". Since the manager did not comply with the above direction, petitioner had approached respondent No.3 as revealed from Exts.P4 and P5 representations. But still, no action was taken. It is contended by the petitioner that the refusal on the part of the manager to give the benefit of Rule 51-B to the petitioner is highly illegal and unjust. Therefore, she prays for appropriate reliefs in the writ petition.

4. In the counter affidavit, it is contended by the manager that petitioner

had not submitted an application in the prescribed format and as provided in the then prevailing rules (G.O.(P) No.12/99/P & ARD dated 24.5.1999) (for short, 'Rules 1999) . On the contrary, petitioner had preferred Ext.P1 application in terms of G.O.(P) No.7/1995 dated 30.3.1995. Since petitioner's mother had expired in October 2000, she had to apply under the Rules 1999. It is also contended that the family of the petitioner was not in dire straits financially at the relevant point of time. Further, petitioner had got married to Mr.Rocky Raphel and she is now employed in the Middle East. It is also contended that no post of Clerk had arisen in the school to accommodate the petitioner. The posts of Laboratory Assistant which had allegedly arisen in the Higher Secondary Section of the school could not have been claimed by the petitioner, since they were filled up on June 15, 2001, prior to receipt of Ext.P1 application, even assuming the said application was in order. More importantly, petitioner had not applied for the post of Lab Assistant.

5. In the above context, learned counsel for respondent No.1 places reliance on a decision rendered by a Division Bench of this court in Writ Appeal No.2181/2005 and connected cases. The Division Bench has held that the dependants of teachers in High Schools will not be eligible to get employment assistance in respect of posts in the Higher Secondary School section.

6. It is pertinent to note that petitioner has not filed a reply affidavit controverting the assertion made by respondent No.1 that she is now living with

her husband in the Middle East and that she is employed there. It is also to be noticed that petitioner had not submitted the application for employment assistance in terms of the Rules 1999. Apparently Ext.P1 application was filed in the format prescribed under Rules 1995. Those rules were admittedly not applicable in the case of the petitioner. In that view of the matter also, it cannot be said that the petitioner had submitted a proper application for employment assistance as contemplated under the relevant rules.

7. Since the petitioner has not succeeded in establishing her case that she was in fact entitled to get the benefit of compassionate appointment as provided under Rule 51-B because of any sudden financial crisis in the family, I am satisfied that no relief can be granted to her in this writ petition.

Writ petition fails. It is accordingly dismissed.

(A.K. Basheer)
Judge.

Kav/